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# United States District Court

EASTERN DISTRICT OF WISCONSIN

## JUDGMENT IN A CIVIL CASE

**WILLIAM D. AVERY,  
WILLIAM DAMEN AVERY, Jr.,  
SIRENA ALLINE AVERY,  
CYNTHIA LYNN TYLER  
JALISA JONIQUE AVERY, and  
NAFIA NICOLE AVERY,**

Plaintiffs,

V.

CASE NUMBER: 11-CV-408

**CITY OF MILWAUKEE,  
DETECTIVE GILBERT HERNANDEZ,  
DETECTIVE DANIEL PHILLIPS, DETECTIVE  
KATHERINE HEIN, DETECTIVE TIMOTHY HEIER,  
DETECTIVE KEVIN ARMBRUSTER, DETECTIVE  
ERIC GULBRANDSON, and DETECTIVE  
JAMES DEVALKENAERE,**

Defendants.

- ☒ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☐ Decision by Court. This action came on for consideration and a decision has been rendered.

**IT IS ORDERED AND ADJUDGED that judgment is entered in favor of William Avery and against defendants Gilbert Hernandez and Daniel Phillips on William Avery's claims that Hernandez and Phillips fabricated evidence, failed to intervene to prevent the use of fabricated evidence, and conspired to use fabricated evidence that was a cause of William Avery's homicide conviction, in the amount of \$1,000,000.**

**IT IS FURTHER ORDERED AND ADJUDGED** judgment is entered in favor of William Avery and against the City of Milwaukee on William Avery's claim that the City of Milwaukee had a policy, practice or custom of inadequately investigating homicides at the time in question which led to the fabrication of evidence resulting in William Avery's homicide conviction in the amount of \$1,000,000.

**IT IS FURTHER ORDERED AND ADJUDGED** that judgment is entered in favor of defendants Katherine Hein, Timothy Heier, Kevin Armbruster, and James DeValkenaere, and against William Avery on William Avery's claims that Hein, Heier, Armbruster, and DeValkenaere fabricated evidence, failed to intervene to prevent the use of fabricated evidence, and conspired to use fabricated evidence that was a cause of William Avery's homicide conviction.

The defendants' motion for summary judgment on William Avery's claim that defendants Hernandez, Phillips, Hein, Heier, Armbruster, Erik Gulbrandson, and DeValkenaere deliberately withheld exculpatory evidence, failed to intervene to prevent the withholding of exculpatory evidence, and conspired to withhold exculpatory evidence is **GRANTED**.

The defendants' motion for summary judgment on William Avery's claim that the City of Milwaukee had a policy, practice or custom of deliberately withholding exculpatory evidence is **GRANTED**.

William Avery's state law claims for malicious prosecution, negligent infliction of emotional distress, and intentional infliction of emotional distress are **DISMISSED** with prejudice.

William Avery's claims against Gulbrandson are **DISMISSED** with prejudice.

The claims of William Damen Avery, Jr., Sirena Alline Avery, Cynthia Lynn Tyler, Jalisa Jonique Avery, and Nafia Nicole Avery are **DISMISSED WITHOUT PREJUDICE**. In all other respects, this action is **DISMISSED WITH PREJUDICE**.

**June 11, 2015**

Date

**JON W. SANFILIPPO**

Clerk

**s/ C. Bongel**

(By) Deputy Clerk

APPROVED:

A handwritten signature in black ink, appearing to read "Rudolph T. Randa", is written over a horizontal line.

Hon. Rudolph T. Randa  
U.S. District Judge

6/11/15

Date